

JUDGMENT

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
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LANCE S. WILSON
CLERK
BY *Bm*
DEPUTY

NO. 99-17322
CT/AG#: CV-97-00508-ECR

HOME HAVEN, INC.; RAYMOND BEATY; ROBERT HEMENWAY; HAVEN
HOMES LIMITED PARTNERSHIP

Plaintiffs - Appellants

v.

UNITED STATES OF AMERICA

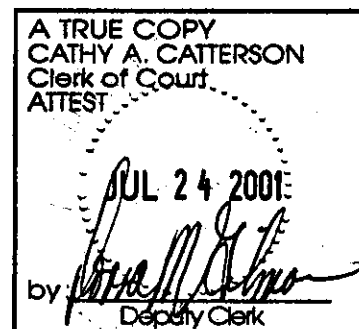
Defendant - Appellee

APPEAL FROM the United States District Court for the
District of Nevada (Reno) .

THIS CAUSE came on to be heard on the Transcript of the
Record from the United States District Court for the
District of Nevada (Reno)
and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here ordered and
adjudged by this Court, that the judgment of the said
District Court in this cause be, and hereby is AFFIRMED.

Filed and entered - 5/31/01.



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FILED

NOT FOR PUBLICATION

MAY 31 2001

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U. S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

**HOME HAVEN, INC.; RAYMOND
BEATY; ROBERT HEMENWAY; HAVEN
HOMES LIMITED PARTNERSHIP,**

Plaintiffs - Appellants,

v.

UNITED STATES OF AMERICA,

Defendant-Appellee.

No. 99-17322

D.C. No. CV-97-00508-ECR

MEMORANDUM*

**Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, Jr., District Judge, Presiding**

**Argued and Submitted April 13, 2001
San Francisco, California**

Before: BEEZER, O'SCANNLAIN, and W. FLETCHER, Circuit Judges.

Home Haven, Inc. brought this wrongful levy action arguing that it was entitled to be equitably subrogated to the rights of the former senior lienholder in the property. The district court disagreed and granted summary judgment to the government holding that equitable subrogation does not apply where the party has

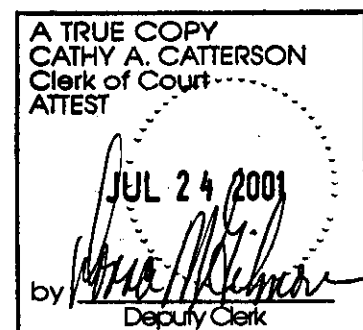
*** This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.**

actual notice of a preexisting subordinate encumbrance. This appeal followed. The facts and prior proceedings are known to the parties; they are not restated herein except as necessary.

Equitable subrogation is a state-law doctrine and therefore whether it applies here turns on Nevada law. As we have noted, “[t]here is limited Nevada authority on the doctrine of equitable subrogation.” Mort v. United States, 86 F.3d 890, 893 (9th Cir. 1996). “Where Nevada law is lacking, its courts have looked to the law of other jurisdictions, particularly California, for guidance.” Id. In keeping with this tradition, we too have looked to the law of other jurisdictions, particularly California, to supplement Nevada’s equitable subrogation jurisprudence. See id. at 893-94.

In Han v. United States, 944 F.2d 526 (9th Cir. 1991), we noted that under California law “equitable subrogation is denied to a party who has ‘actual’ knowledge of an existing encumbrance.” Id. at 530 (citing Smith v. State Savings & Loan Association, 175 Cal. App. 3d 1092, 1098 (1985)). Because it is undisputed that Home Haven had actual notice of the federal tax lien, Home Haven is, therefore, barred from use of the doctrine of equitable subrogation. Accordingly, the district court is

AFFIRMED.



INTERNAL USE ONLY: Proceedings include all events.
99-17322 Home Haven, Inc., et al v. USA

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Plaintiff - Appellant

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PARTNERSHIP
Plaintiff - Appellant

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